

**UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND  
GREENBELT DIVISION**

VELMA M. MELTON,

Plaintiff,

v.

SELECT PORTFOLIO SERVICING, INC.,

Defendant.

Civil Action No. TDC-19-0209

**AMENDED CROSS-MOTION FOR SUMMARY JUDGMENT  
OF DEFENDANT SELECT PORTFOLIO SERVICING, INC. AND  
OPPOSITION TO PLAINTIFF’S MOTION FOR PARTIAL SUMMARY JUDGMENT**

Pursuant to the Court’s Orders entered on December 3, 2020 [ECF 124] and February 9, 2021 [ECF 130] and Fed. R. Civ. P. 56, Defendant Select Portfolio Servicing, Inc. (“SPS”) hereby cross-moves for summary judgment in its favor as to all claims in Plaintiff’s Amended Complaint, and in opposition to Plaintiff’s Motion for Partial Summary Judgment (ECF 128). Plaintiff has failed to provide any argument or evidence supporting that SPS failed to conduct a reasonable investigation in this case. This is an essential element of a claim for negligent violation of the Fair Credit Reporting Act (“FCRA”). Additionally, Plaintiff has not provided any evidence of any willful violation of the FCRA. Further, the Court should grant summary judgment to SPS on Plaintiff’s defamation claim on grounds it is preempted by federal law, as she fails to establish SPS reported false information with malice or a willful intent to injure. See 15 U.S. C. §1681h(e). Alternatively, as there are no viable claims under the FCRA, the Court should decline the exercise of supplemental jurisdiction over her defamation claim.

As set forth in its accompanying Memorandum in Support, SPS’s actions were based on a reasonable interpretation of applicable law and in accordance with industry standards. Finally, Plaintiff has provided no evidence supporting any damages caused by any action of SPS. The

alleged harm to Plaintiff's credit was entirely caused by her own actions, or that of credit reporting agency Experian, and not because of actions or inactions of SPS. Therefore, the Court should grant SPS's cross-motion for summary judgment as to all claims and deny Plaintiff's motion for partial summary judgment.

A proposed order is attached.

February 16, 2021

Respectfully submitted,

/s/ **Mary S. Diemer**

Mary S. Diemer, Esquire  
Federal Bar No. 12328  
NELSON, MULLINS, RILEY & SCARBOROUGH LLP  
E-Mail: mary.diemer@nelsonmullins.com  
101 Constitution Avenue, N.W., Suite 900  
Washington, D.C. 20001  
(202) 712-2800  
Fax: (202) 712-2860  
*Attorneys for Select Portfolio Servicing, Inc.*

**CERTIFICATE OF SERVICE**

I certify that on this 16<sup>th</sup> day of February, 2021, copies of Select Portfolio Servicing, Inc.'s Amended Cross-Motion for Summary Judgment, Memorandum in Support, and Proposed Order was served by CM/ECF upon all registered parties of record. I further certify that a courtesy copy was served upon the Clerk of the Court by overnight mail, and that joint record copies of Defendant's Exhibits were exchanged with Kevin Williams, Esq. by email (kevin@kwesquire.com).

/s/ **Mary S. Diemer**

Mary S. Diemer